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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/538,710

06/10/2005

Christel Thea Jorgensen

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EXAMINER

BADR, HAMID R

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

06/11/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/538,710	<b>Applicant(s)</b> JORGENSEN ET AL.	
	<b>Examiner</b> HAMID R. BADR	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06/10/2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/10/2005</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clausen et al. (WO 98/26057; hereinafter R1) in view of Burdge et al. (2000; A method for the separation of phosphatidyl choline, triacylglycerol, non-esterified fatty acids and cholesterol esters from plasma by solid phase extraction) and Helmy et al. (1995, TLC derived data relating to the in vitro deacylation of phospholipids by various extracellular phospholipase A2 compared with the in vitro deacylation of endogenous substrate by the endogenous phospholipase A2 of various tissues; hereinafter R3).

3. R1 gives details of the action of phospholipase A1, phospholipase A2 and phospholipase B. R1 teaches the reactions of phospholipases on phosphatidyl choline, phosphatidyl ethanolamine, and lysophosphatidyl choline. (page 12, line 10 to page 13, line 3). These reactions show that fatty acids are released by the action phospholipases.

4. R1 teaches how to assay the phospholipase by measuring the release of free fatty acids from lecithin in a buffer (page 26, lines 10-13).

5. R1 discloses that the phospholipase of the invention can be used in any application where it is desired to hydrolyze the fatty acyl group(s) of a phospholipid or lysophospholipid such as lecithin or lyso-lecithin. The phospholipase of the invention can be used in the preparation of dough, bread and cakes, e.g. to improve the elasticity of the bread or cake. Thus the phospholipase can be used in a process for making bread, comprising adding the phospholipase to the ingredients of a dough, kneading the dough and baking the dough to make the bread (page 45, lines 9-22). The phospholipase of the invention may also be used in bread improving additives, e.g. dough compositions, dough additives, dough conditioners, pre-mixes and similar preparations conventionally added to the flour and/or the dough during processes for making bread or other baked products to provide improved properties of bread or other baked products (page 47, lines 11-17). R1 gives details of a formulation for European straight dough white bread and rolls (page 93, preparation of bread).

6. R1 is silent regarding the use of thin layer chromatography (TLC) in the assay of phospholipases.

7. R2 reports a method for separation of phosphatidylcholine, triacylglycerol, non-esterified fatty acids and cholesterol esters from plasma by solid phase extraction (title).

8. R2 teaches how to isolate the plasma lipid classes by TLC. R2 employs Silica Gel 60 TLC plate using a solvent system to develop the plates. After processing the plates; bands corresponding to triacylglycerols, cholesterol esters, and non-esterified fatty acids are detected. (Page 782, col. 2, Isolation of plasma lipid classes by TLC). Since the separation of fats and fatty acids by TLC is a very well known technique in the

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chemistry of fats and oils, the released fatty acids (due to the hydrolysis of ester bonds by the lipolytic activity as claimed in the instant application) can readily be detected (as presently claimed ).

9. R2 is silent regarding the incubation of the phospholipase and the substrate while they are both placed on the TLC plate.

10. R3 discloses that the assay of phospholipase may be conducted when both the enzyme and the substrate are both placed on the TLC plate. R3 teaches that Silica G plates were developed sequentially in one dimension with two mobile phases. The first mobile phase being acetone transports the neutral lipids, including the fatty acids derived from the PLA deacylation (Page 370, col. 1, TLC procedure). The direct TLC assay was conducted by first applying the substrate to the plates and after drying, one or more applications of the phospholipase preparations were used to cover the substrate. After air drying, the plates were developed (page 370, col. 2, lines 1-6).

11. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the teachings of R1 by using the detection methods as taught by R2 and R3. One would do so to benefit from a phospholipase in baking (as taught by R1) by first screening for phospholipases by assaying the phospholipase (as taught by R1) and then detecting the released fatty acids by TLC as taught by R2 and R3. Absent any evidence to contrary and based on the combined teachings of the cited references; there would be a reasonable expectation of success in screening and selecting a phospholipase (lipolytic enzyme) to be used in baking experiments.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAMID R. BADR whose telephone number is (571)270-3455. The examiner can normally be reached on M-T 5:00 to 3:30 (Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on (571) 272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hamid R Badr  
Examiner  
Art Unit 1794

/Callie E. Shosho/  
Supervisory Patent Examiner, Art Unit 1794